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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1933

No. 355

TRINITYFARM CONSTRUCTION COMPANY,

APPELLANT,

vs.

ALICE LEE GROSJEAN, SUPERVISOR OF PUBLIC ACCOUNTS OF THE STATE OF LOUISIANA,

APPELLEE.

PETITION FOR REHEARING

D. K. WOODWARD, JR.,
H. PAYNE BREAZEALE,
VICTOR A. SACHSE,
Counsel for Appellant.

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To the Honorables, the Chief Justice and the Associate Justices of the Court:

Comes now Trinityfarm Construction Company appellant herein, and respectfully presents this its petition for rehearing of said cause upon the following:

GROUNDS FOR REHEARING

1.

The Court erred in holding that the challenged tax is not a direct burden on the federal contract.

2.

The Court erred in holding that payment of the challenged tax on operations of appellant constitutes only a consequential or remote burden on the federal government.

3.

The criterion as to the validity of the tax is its bearing upon the federal instrument—here the government contract for construction of the levee. The burden of the questioned tax falls directly upon the federal contract and the Court erred in failing to so hold.

4.

The effect of the tax upon federal operations, not the manner in which it is laid or the method by which it is collected, determines its validity. The effect of the tax here is to burden, retard and impede federal operation in that the whole amount of the tax falls as a direct charge upon the federal treasury and the Court erred in failing to so hold.

5.

The federal undertaking sought to be accomplished through means of the contract between the government and appellant was the completion of the designated levees. The federal government had an immediate and direct concern in the performance of its contract until finally completed, and the Court erred in holding that a tax laid upon an operation essential to such completion was not laid upon a transaction in which the federal government is immediately and directly concerned.

6.

It is the established law of this Court that a property or ad valorem tax does not constitute a prohibited burden on a federal or interstate commerce undertaking in connection with which such property is used but that a use or occupation tax charged as the price for the privilege of using such property in such an undertaking is a direct and, therefore, a prohibited burden on such undertaking. The Court erred in applying to these distinct types of taxes the same criterion and in holding that the challenged tax on the use of gasoline in performing the work required by the federal instrument was not a direct burden thereon.

7.

The operation sought to be subjected to the tax lies beyond the jurisdictions of the State and the Court erred in failing to so hold.

Submitted herewith is an argument in support of this petition to which the attention of the Court is respectfully directed.

Respectfully submitted,

D. K. WOODWARD, JR.,
H. PAYNE BREAZEALE,
VICTOR A. SACHSE,
Counsel for Trinityfarm Construction Company, Appellant.

I, Victor A. Sachse, of counsel for appellant, hereby certify that the foregoing petition is presented in good faith and not for delay.

Baton Rouge, La.
April 27, 1954
Victor A. Sachse

Submitted herewith is an argument in support of this petition to which the attention of the Court is respectfully directed.

Respectfully submitted,

D. K. WOODWARD, JR.,
H. PAYNE BREAZEALE,
Counsel for Petitioner.